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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

In re DESTINY C., a Person Coming
Under the Juvenile Court Law.

B238245

(Los Angeles County
Super. Ct. No. CK84135)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent.

v.

JOSE A.,

Defendant and Appellant.

THE COURT:*

Appellant Jose A. (father) appeals from the juvenile court's order terminating his parental rights over Destiny C. (born May 2010). We dismiss the appeal.

BACKGROUND

1. Detention and section 300 petition

On September 21, 2010, the Los Angeles Department of Children and Family Services (the Department) filed a petition under Welfare and Institutions Code¹ section

*BOREN, P. J., DOI TODD, J., CHAVEZ, J.

¹ All further statutory references are to the Welfare and Institutions Code.

300 alleging that Destiny and her three-year-old sister, Leyla,² were at risk because their mother Angela C. (mother) abused drugs and mother's boyfriend Hector Q. had sexually and physically abused Leyla. The petition further alleged that Leyla's father, G.Q. (G.Q.), and Destiny's father, initially identified as G.G., had both failed to provide for the children. Both Destiny and Leyla were detained in foster care.

At the detention hearing held on September 21, 2010, mother completed a parentage questionnaire in which she identified father, and not G.G., as Destiny's father. She provided father's date of birth and stated that he was incarcerated in Delano. Mother indicated that she and father had never married, father had not signed Destiny's birth certificate or any other document to establish his paternity, and he had not held himself out as Destiny's father, received her into his home, or provided for her care.

Father did not receive notice of the detention hearing and did not attend the hearing. Mother and G.Q. were present at the hearing, as was father's sister, Jaquelin S. (Jaquelin). At the hearing, the juvenile court found father to be Destiny's alleged father and G.Q. to be Leyla's presumed father. The court found prima facie evidence supported the children's detention and ordered them detained in foster care. The case was then transferred to another department where G.Q. had a separate dependency case for another child. The juvenile court set a pretrial resolution conference for October 21, 2010 and issued a statewide removal order for father for that same date.

On September 29, 2010, the juvenile court ordered that Destiny and Leyla both be placed with Leyla's paternal grandmother, Olga Q. (Olga). On that same day, the Department filed a report indicating that father was incarcerated at North Kern State Prison in Delano.

2. Jurisdiction/disposition

In a jurisdiction disposition report dated October 21, 2010, the Department provided additional information regarding father. Mother said she had last seen father when she was six months pregnant with Destiny. Mother's friend Monica P., who was

² Leyla is not a subject of this appeal.

also the building manager for the apartment in which mother resided, said that father had beaten mother while she was pregnant with Destiny and then pushed mother down the stairs. Monica had taken mother to file a police report, and father was subsequently arrested.

Leyla's paternal grandmother Olga told the social worker that she had helped care for Leyla since her birth. She further stated she was willing to care for both Destiny and Leyla and that she loved them both.

The Department's social worker attempted unsuccessfully to interview father. She left several messages for father's prison counselor but received no response. Father's sister Jaquelin reported that father was scheduled to be released from prison in 2011. The Department recommended reunification services for mother and G.Q. but recommended that no services be offered to father.

Father appeared at the October 21, 2010 pretrial resolution conference and was appointed counsel. He requested a paternity test for Destiny. Father's sister Jaquelin was also present at the hearing, and the juvenile court ordered the Department to assess her for possible placement of Destiny. The matter was continued to December.

In December 2010, the Department reported that mother was now homeless. Mother told the social worker that father had physically abused her when she was six months pregnant with Destiny. According to mother, father was in prison because he had pushed her off the stairs and kicked her in the stomach. She further stated that father had not provided anything for Destiny.

Father was present in custody at the January 7, 2011, combined jurisdiction and disposition hearing. Father's sister Jaquelin was also present, as was a woman who identified herself as father's wife.³ Father's paternity test had not yet been completed.

The juvenile court dismissed without prejudice the only allegation against father -- that he had failed to provide for Destiny. The court then sustained an amended petition,

³ G.Q. was also present and pled no contest to the allegations. Mother did not appear and her whereabouts were unknown.

declared Destiny and Leyla dependents, and ordered them removed from parental custody. The juvenile court ordered family reunification services for mother and G.Q. but denied services to father under section 361.5, subdivision (a) because he was still only an alleged father. The court accorded father monitored visits with Destiny.

On March 22, 2011, the Department submitted paternity test results confirming that father was Destiny's biological father, and the juvenile court found him to be the biological father. The court also ordered the Department to complete a placement evaluation for Jaquelin, conditioned upon the consent of the children's counsel.

3. Review Proceedings

Father was incarcerated in Soledad and did not attend the hearing held on July 8, 2011. The Department had not arranged any visits between father and Destiny; however, Jaquelin was having four-hour unmonitored visits with Destiny every other weekend. The visits went well, and Jaquelin picked Destiny up and returned her to Olga's home on time.

Mother did not attend the July 8, 2011 hearing. She had not complied with her case plan and was now living in Las Vegas. G.Q. was present in custody at the hearing. He had been arrested on a felony charge in May 2011. Before his arrest, G.Q. had partially complied with his case plan.

Neither father nor mother was present at the contested six-month review hearing held on August 29, 2011. G.Q., who had been sentenced to a five-year prison term, was present in custody. The juvenile court terminated family reunification services for mother and G.Q. and set a section 366.26 hearing for December 9, 2011.

4. Section 366.26 hearing

Father was released from prison in September 2011 and on September 13, 2011, began having twice weekly one-hour monitored visits with Destiny. The Department's social worker reported that father's visits were "consistent and of good quality." Jaquelin also continued to have unmonitored visits with Destiny.

Destiny and Leyla remained placed with Olga. The children appeared to be happy and comfortable in Olga's care and to share a strong bond with her. Olga was willing to adopt both children.

Father was present at the December 9, 2011 section 366.26 hearing, as was Jaquelin. Father's counsel requested a contested hearing, and the juvenile court asked for an offer of proof. In response, father's counsel stated that father had been visiting Destiny twice a week, for a total of seven hours per week and that father intended to file a section 388 petition to request presumed father status and family reunification services. The juvenile court found the offer of proof to be insufficient and denied father's request for a contested hearing. The court also denied father's request for a continuance to enable him to file a section 388 petition.

The juvenile court found both girls adoptable and found no evidence that it would be detrimental to them to terminate parental rights. The court terminated father's parental rights, but allowed father to have continued monitored visits with Destiny. This appeal followed.

5. The instant appeal

We appointed counsel to represent father in this appeal. After examining the record, father's counsel filed a brief pursuant to *In re Phoenix H.* (2009) 47 Cal.4th 835, indicating an inability to find any arguable issues. On March 2, 2012, we advised father that he had 30 days in which to submit any contentions or arguments he wished us to consider.

Father submitted a letter brief in which he claimed he had been denied sufficient time to bond with Destiny and to demonstrate his ability to become a fit parent. He stated that he had begun a tattoo removal program, obtained a driver's license, and was seeking employment. He also claimed to have an emotional connection with Destiny during the three months of monitored visits.

DISCUSSION

"An appealed-from judgment or order is presumed correct. [Citation.] Hence, the appellant must make a challenge. In so doing, he must raise claims of reversible error or

other defect [citation], and ‘present argument and authority on each point made’ [citations]. If he does not, he may, in the court’s discretion, be deemed to have abandoned his appeal. [Citation.] In that event, it may order dismissal. [Citation.]” (*In re Sade C.* (1996) 13 Cal.4th 952, 994.)

Father has established no error in the proceedings below, nor any legal basis for reversal. Substantial evidence supports the juvenile court’s conclusion that Destiny was adoptable, and that adoption was in the child’s best interest.

We accordingly dismiss the appeal.